

REMARKS

This Amendment is being filed in response to the Office Action mailed December 28, 2004. Claims 1-37 are pending. Claims 1, 5, 10, 18, 25 and 30 have been amended.

In the Office Action, the Examiner rejected claims 10 and 30 under 35 U.S.C. § 112, second paragraph, as being indefinite. Particularly, claims 10 and 30 contain trademarks ("Inconel 718," "Waspaloy" and "Rene-41") which cannot be used properly to identify any particular material or product. According to the Examiner, since the trademarks are being used to identify or describe an alloy metal, such identification or description is indefinite. Applicants have amended claims 10 and 30 to replace the trademarks in the claims with specific materials, and their ranges, known in the art to be included in the compositions of the alloys identified by the trademarks. Applicants submit that such claims, as amended, meet the requirements of 35 U.S.C. § 112, second paragraph, and are patentable.

The Examiner has rejected claims 5 and 25 under 35 U.S.C. § 112, second paragraph, as being indefinite in that they fail to point out or clearly state "which section of which part is being referred to throughout the description of the claim." Claims 6-11 and 26-31 have been rejected as being dependent on claims 5 and 25, respectively. Claims 5 and 25 have been amended to clarify the claim language, namely, to more clearly refer to the sections of the planar body member that extend outwardly of the plane of the body member and the one side of each section that is joined to the body member, as recited in claims 1, 4, 18 and 24, from which claims 5 and 25 depend, respectively. Applicants submit that such claims, as amended, are sufficiently definite as to meet the requirements of 35 U.S.C. § 112, second paragraph.

The Examiner has rejected claims 1-4 and 12-17 under 35 U.S.C. § 102 (b) as being anticipated by Louis (U.S. Patent No. 4,604,331). The Examiner has rejected claims 5-9 and 11 under 35 U.S.C. § 103(a) as being unpatentable over Louis in view of Franklin et al. (U.S. Pub. No. 2002/0022382). The Examiner has also rejected claims 18-37 under 35 U.S.C. § 103(a) as being unpatentable over Louis in view of Franklin et al. and in view of Gionfriddo (U.S. Patent No. 4,689,280). With respect to amended claims 1 and 18, and their respective dependent claims, the Examiner's rejections are respectfully traversed.

Applicants' independent claims 1 and 18 have been amended to clarify the features of the present invention. Particularly, each of claims 1 and 18 now recite a compliant member comprising a planar body member having sections extending outwardly of the plane of the body member, said sections of said body member imparting compliance to said compliant member.

With regard to claims 1-4 and 12-17, the Examiner states that Louis describes a separator plate for a fuel cell with sealing flanges and that it is well known that the sealing flange is the wet seal area. According to the Examiner, Louis shows a compliant member (Fig. 6) with a body member (53) and a section extending outward of the plane of the body member (51). Applicants respectfully disagree.

The "section" referred to by the Examiner (top portion 51) is not a part of the "body member" (foot 53), as is required by and now more clearly recited in applicants' claims. In fact, the top portion 51 and the foot 53 are both parts of an elongated, continuous channel-shaped reinforcing member 50 described in the Louis patent. The member 50 is thus not a planar body member, as required by applicants' amended claims. Rather, the member 50 is generally hat-shaped in transverse cross-section (Col. 4, lines 44-46) and includes the flat

rectangular top portion 51, sloping sides 52 and laterally on each side a foot 53. These parts form the continuous body of the member 50 and cannot be said to extend outwardly of the plane of the body member. Applicants therefore submit that claim 1 and its dependent claims patentably distinguish over the Louis patent.

With regard to claims 5-9 and 11, the Examiner argues that Louis teaches the use of a spring (i.e., the reinforcing member 50) as the compliant member in which, if enough pressure is applied, sections (52) would lie in the same plane as the body member (53). The Examiner turns to Franklin et al. for the teaching of independently acting springs all attached on the same side to a body member, as shown in Fig. 9L. According to the Examiner, it would have been obvious to one of ordinary skill in the art to modify the reinforcing member of Louis with the independent spring assembly of Franklin et al. to compensate for variation in the fabrication or assembly of the cell and to further improve electrical contact within the cell.

The spring pieces 37 in the Franklin et al. reference are used to provide contact between a bipolar separator plate ("BSP") and a membrane electrode assembly ("MEA") in a proton exchange membrane ("PEM") fuel cell. Applicants respectfully submit that there is no teaching or suggestion in the Franklin et al. reference to use such a structure to provide compliance in the wet seal area of a separator plate of the type described in the Louis patent.

In any case, the spring pieces taught by Franklin et al. are individual springs connected to a base plate (e.g. see the base plate 38 in FIG. 9L) and, like the Louis patent, there is no teaching or suggestion in the Franklin, et al. reference of a planar body member having sections of the body member which extend outwardly of the plane of the body member, as is required by applicants' amended claim 1. Thus, the Louis patent and the Franklin et al. reference, either

alone or in alleged combination, do not teach or suggest the features of applicants' amended claim 1 and its respective dependent claims.

Applicants also note that applicants do not agree with the Examiner's statement that with enough pressure the side sections 52 of the reinforcing member 50 would lie in the same plane as the foot 53.

The cited Gionfriddo patent is directed to an end plate structure for fuel cell stacks. With regard to claims 18-37, the Examiner argues that Gionfriddo teaches the use of a current collector 56 that extends into the sealing flange 54 (Fig. 2), and Fig. 1 shows the assembly of an anode 34 and cathode 38 placed in the active area. According to the Examiner, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the current collector, anode and cathode assembly of Gionfriddo with the sealing separator plate of Louis as modified by Franklin et al. in order to have a complete fuel cell with improved sealing features and improved electrical contact system.

However, applicants submit that the Gionfriddo patent, like the Louis and Franklin et al. patents, also fails to teach or suggest a "compliant member comprising a planar body member having sections extending outwardly of the plane of the body member, said sections of said body member imparting compliance to said compliant member," as required by applicants' amended claims 18-37. Accordingly, applicants submit that applicants' claims 18-37, as amended, patentably distinguish over the combination of the Louis, Franklin et al. and Gionfriddo patents.


In view of the above, it is submitted that applicants' claims, as amended, patentably distinguish over the cited art of record. Accordingly, reconsideration of the claims is respectfully requested.

If the Examiner believes that an interview would expedite consideration of this Amendment or of the application, a request is made that the Examiner telephone applicant's counsel at (212) 790-9273.

Dated: March 25, 2005

COWAN LIEBOWITZ & LATMAN, P.C.  
1133 Avenue of the Americas  
New York, New York 10036  
T (212) 790-9200

Respectfully submitted,

  
John J. Torrente  
Reg. No. 26,359  
Attorney of Record